

1. Each allowance listed in the transfer request is held in the originating account at the time the transfer is to be recorded;

2. The person acquiring the allowances has an account in the NATS; and

3. The transfer request has been certified and submitted by the person named as AAR for the originating account.

(g) After a transfer request is determined to be valid by the NATS Administrator, the transfer shall be recorded in the NATS as follows: the allowance(s) with the serial number(s) specified in the transfer request shall be deducted from the originating account and added to the acquiring account.

(h) The NATS Administrator shall provide notification of the transfer to the AAR of the originating account, to the AAR of the acquiring account, and to the Department.

(i) If the acquiring account or originating account is assigned to a person located in a jurisdiction outside of New Jersey, the NATS Administrator shall also provide notification of the transfer to the environmental agency serving the other jurisdiction.

(j) Notification pursuant to (g) or (h) above shall, at a minimum, include the following:

1. The effective date of the transfer;
2. The NATS account numbers for both the originating account and the acquiring account;
3. The name and address of the persons to which the originating account and the acquiring account are assigned; and
4. The total number of allowances transferred, and the serial number of each allowance.

(k) This section allows the interstate and interjurisdictional transfer of allowances. However, the transfer of an allowance initially allocated by the Department pursuant to N.J.A.C. 7:27-31.7 to the compliance account of a budget source located in another jurisdiction is prohibited, until the other jurisdiction has also adopted rules which allow the interstate trading of allowances and is implementing a NO<sub>x</sub> Budget Program, in a manner consistent with the agreements in the OTC MOU.

(l) At any time between January 31 and December 31 during any year, a person who holds an allowance in an account may elect to permanently retire that allowance. In order to permanently retire one or more allowances, the AAR of the account in which the allowance is held shall submit to the NATS Administrator a retirement request. A retirement request shall conform to the same procedures for a transfer request given at (c) above. The NATS Administrator shall process the retirement request following the

same procedures as set forth for transfer requests at (d) through (i) above.

#### 7:27-31.11 Allowance banking

(a) If an allowance held in a general account or a compliance account is not used to satisfy the compliance requirement at N.J.A.C. 7:27-31.3(i), is not otherwise deducted from the account pursuant to N.J.A.C. 7:27-31.17 or 31.19, and is not permanently retired pursuant to N.J.A.C. 7:27-31.10, then that allowance may continue to be held in the account until the next or subsequent control periods. This retention of one or more allowances in an account from one year to a future year is referred to as "banking."

(b) Each year the NATS Administrator shall flag allowances that remain in an account as of the allowance transfer deadline (that is, December 31) as "banked" allowances.

(c) By March 1 of each year, the NATS Administrator shall:

1. Determine whether the total number of allowances banked in the NATS as of January 1 of the current year exceeds 10 percent of the total regional base emission budget for the current year control period; and

2. Announce that for the current year control period:

- i. If the banked allowances are determined to be equal to or less than 10 percent of the total regional base emission budget, all banked allowances can be used in the current year on a one-for-one basis; or
- ii. If the banked allowances are determined to be greater than 10 percent, the constraints on use of banked allowances as set forth in (d) below apply.

(d) If the NATS Administrator determines that the total number of banked allowances exceeds 10 percent of the regional base emission budget for the current year control period, a portion of the banked allowances shall be allowed to be used on a one-for-one basis, but the remainder of the banked allowances shall be required to be used on a two-for-one basis. The NATS Administrator shall determine which banked allowances fall in each class in accordance with the following:

1. The NATS Administrator shall determine the ratio to be used to determine which banked allowances may be used on a one-for-one basis, as follows:

$$\text{Ratio} = \frac{0.10 \times B_R}{A_B}$$

Where:

B<sub>R</sub> = The annual regional base NO<sub>x</sub> emissions budget; and  
A<sub>B</sub> = The total number of banked allowances in all NATS accounts; and

2. As prescribed at N.J.A.C. 7:27-31.17(g), during the reconciliation process, the NATS Administrator shall apply the ratio calculated in (d)1 above to the number of banked allowances in each account to determine the

number of banked allowances in the account which can be used in the current year control period on a one-for-one basis. The remaining number of banked allowances in each account shall be used on a two-for-one basis.

#### 7:27-31.12 Early reductions

(a) Pursuant to this section, the owner or operator of a budget source may claim early reduction credit based on certain reductions in the emissions from a budget source during 1997 and 1998. If the claim is approved, the Department shall subsequently convert such emission reductions into allowances.

(b) The owner or operator of a budget source who wishes to claim early reductions pursuant to this section shall submit the information specified in (c) below to the Department by October 31, 1998 to the following address:

ATTN: NO<sub>x</sub> BUDGET EARLY REDUCTION  
CLAIM  
New Jersey Department of Environmental Protec-  
tion  
Office of Air Quality Management  
PO Box 418  
Trenton, NJ 08625-0418

(c) A claim shall include the following information:

1. Identification of the source, including the rated heat input capacity and type of combustion unit;

2. Specification of the period(s) for which early reductions are being claimed. Early reductions may be claimed for the period from May 1 through September 30 in either the year 1997, 1998, or in both years;

3. The following information pertaining to the source's operation during the period(s) specified in (c)2 above:

i. For each type of fuel allowed to be combusted in the source, the lowest allowable NO<sub>x</sub> emission rate applicable during the period(s), expressed in pounds per MMBtu;

ii. For each type of fuel allowed to be combusted in the source, the total amount of each type combusted in the source during the period(s), expressed in MMBtu; and

iii. The total heat input to the source during the period(s), expressed in MMBtu;

4. The following information pertaining to the source's operation during the period of the May 1 through September 30, during two previous years. This information shall be submitted for the two years immediately preceding the submission of the claim, unless the owner or operator can demonstrate that the May 1 through September 30 periods in two other consecutive years within the last five years are more representative of normal source operation. In such case, the information shall be submitted for the May 1 through September 30 period in each of the five years immediately preceding the submission:

i. The total NO<sub>x</sub> emissions of the source during each May 1 through September 30 period, expressed in pounds;

ii. The total heat input to the source during each May 1 through September 30 period, expressed in MMBtu;

iii. The net electric output of source during each period, expressed in MW-hr;

iv. The net useful heat output of the source, during each period, expressed in MMBtu.

5. If the source operated in 1990:

i. The total NO<sub>x</sub> emissions of source during the period of May 1 through September 30, 1990, expressed in pounds; and

ii. The total heat input to the source during the period of May 1 through September 30, 1990, expressed in MMBtu;

6. If the early reductions are being realized as a result of repowering or replacing a budget source which operated in 1990:

i. Proof that the original budget source which operated in 1990 permanently shut down prior to September 30, 1998, and the date on which shutdown occurred;

ii. Proof that a permit for construction for the repowered or replacement source has been issued and the date on which operation of the repowered or replacement source commenced is after October 1, 1990;

iii. The NO<sub>x</sub> emissions of source that has been repowered or replaced during the period of May 1 through September 30, 1990, expressed in pounds; and

iv. The total heat input to the original source during the period of May 1 through September 30, 1990, expressed in MMBtu;

7. If the source commenced operation after 1990, but (c)6 above does not apply:

i. The total heat input to the source during each May 1 through September 30 period for the most recent five years of operation; and

ii. The total NO<sub>x</sub> emissions of the source during each May 1 through September 30 period for the most recent five years of operation;

8. A detailed description of the method by which each piece of data specified in (c)3 through 7 above was collected and calculated, including all assumptions upon which the methods were based;

9. Estimates of the level of inaccuracy and degree of uncertainty of each piece of data specified in (c)3 through 7 above, and an explanation of any adjustment factor(s) applied to correct for any significant resulting inaccuracy;

10. The calculations made to determine the number of early reduction credits claimed specified in (d), (e), and (f) below as applicable;

11. One of the following:

i. A statement that the 1997 and/or 1998 emission reductions on which the claim for early reductions is being based have not been used and will not be used, in whole or in part, as a basis for generating DER credits pursuant to N.J.A.C. 7:27-30 or emission offsets pursuant to N.J.A.C. 7:27-18; or

ii. Proof of permanent retirement of any DER credits generated pursuant to N.J.A.C. 7:27-30 and of any emission offsets created pursuant to N.J.A.C. 7:27-18 which are based in whole or in part, on the 1997 and/or 1998 emission reductions which are the basis for the early reduction being claimed; and

12. Certification pursuant to N.J.A.C. 7:27-1.39.

(d) The amount of early reductions eligible to be claimed for a given May 1 through September 30 period, by a source calculated in accordance with the following, with adjustments made for inaccuracy and uncertainty in accordance with (j) below:

$$\text{Early Reductions} = \left( \frac{E_B}{P_B} - \frac{E_P}{P_P} \right) \times P_P$$

Where:

- $E_B$  = The total baseline  $\text{NO}_x$  emissions of the source as determined in accordance with (e) below, expressed in tons;
- $P_B$  = The total baseline productivity of the source as determined in accordance with (f) below;
- $E_P$  = The total emissions of the source during the May 1 through September 30 period for which early reductions are being claimed as determined in accordance with (g) below, expressed in tons; and
- $P_P$  = The total productivity of the source during the May 1 through September 30 period for which early reductions are being claimed as determined in accordance with (h) below.

(e) The total baseline emissions ( $E_B$ ) for the purpose of calculation in (d) above shall be determined in accordance with the following:

1. Determine the baseline emission rate. This rate shall be expressed in pounds per MMBtu and shall be the lowest of the following rates:

i. If the source is a fossil fuel fired indirect heat exchanger with a maximum rated heat input capacity of at least 250 MMBtu per hour, the greater of 0.20

pounds  $\text{NO}_x$  per MMBtu or 35 percent of the 1990 actual  $\text{NO}_x$  baseline emission rate of the source (expressed in pounds per MMBtu) and determined by dividing the total  $\text{NO}_x$  emissions of the source during the May 1 through September 30, 1990 period, as reported pursuant to (c)5i above, by the total heat input to the source during the May 1 through September 30, 1990 period, as reported pursuant to (c)5ii above;

ii. The source's actual 1990  $\text{NO}_x$  baseline emission rate, determined by dividing the total  $\text{NO}_x$  emissions of the source during the May 1 through September 30, 1990 period, as reported pursuant to (c)5i above, by the total heat input to the source during the May 1 through September 30, 1990 period, as reported pursuant to (c)5ii above; or

iii. The lowest allowable  $\text{NO}_x$  emission rate of the source for the period May 1 through September 30 of the year for which early reductions are being calculated. If the lowest allowable  $\text{NO}_x$  emission rate of the source is a RACT Alternative Emission Limit, then the RACT emission limit as specified at N.J.A.C. 7:27-19 shall be the baseline emission rate. If more than one type of fuel was combusted during the period, then the lowest allowable  $\text{NO}_x$  emission rate of the source shall be a heat input weighted average of lowest allowable  $\text{NO}_x$  emission rate for each fuel type;

2. Determine the utilization for the source in accordance one of the following three methods:

i. If the May 1 through September 30 period during the two years immediately preceding the submission of the claim are representative of normal source operation, the utilization shall be an average of the actual heat input to the source during the two consecutive May 1 through September 30 periods;

ii. If the owner or operator can demonstrate that two other May 1 through September 30 periods within the last five years are more representative of normal source operation, the utilization shall be an average of the actual heat input to the source during these other two consecutive May 1 through September 30 periods; or

iii. If the owner or operator of the source can document that the source had not operated during one of the two consecutive May 1 through September 30 periods preceding the submission of the claim, the utilization shall be the total heat input to the source during the single previous May 1 through September 30 periods immediately preceding the submission of the claim;

3. Calculate the source's average baseline emissions by multiplying the baseline emission rate determined in 1 above by the utilization determined in (e)2 above; and

4. The total baseline emissions ( $E_B$ ) to be used in (d) above shall be the average baseline emissions calculated in (e)3 above, unless the source was operating in 1990 and this average is greater than the source's actual 1990 emissions during the period May 1 through September 30, 1990 as reported pursuant to (c)5i above. In such case, the total baseline emissions ( $E_B$ ) shall be the source's actual 1990 emissions during the period May 1 through September 30, 1990.

(f) The total productivity ( $P_B$ ) for the purpose of calculation in (d) above shall be determined in accordance with the following:

1. Establish the applicable productivity period. If the baseline emissions ( $E_B$ ) determined in (e) above is calculated using a value of utilization based on:

i. Emissions in 1990, the applicable productivity period is May 1 through September 30, 1990;

ii. Emissions in two consecutive years, the applicable productivity period is the two May 1 through September 30 periods in those two consecutive years; or

iii. Emissions during the single May 1 through September 30 period immediately preceding the submission of the claim, the applicable productivity period is that single period;

2. For sources that produce electricity, the baseline productivity is:

i. If the applicable period is a two consecutive years period, the average net electric output, expressed in MW-hr, of the source during the two consecutive periods; and

ii. If the applicable productivity period is a single May 1 through September 30 period in 1990 or in a most recent year, the average net electric output, expressed in MW-hr, during the period in that single year;

3. For sources that produce useful energy other than electricity, the baseline productivity is:

i. If the applicable period is a two consecutive years period, the average net useful heat output, expressed in MW-hr, of the source during the two consecutive periods; and

ii. If the applicable productivity period is a single May 1 through September 30 period in 1990 or in a most recent year, the average net useful heat output, expressed in MW-hr, during the period in that single year;

4. For sources that produce both electricity and other useful energy, the sum of the results of (f)2 and 3 above.

(g) The source's total emissions ( $E_p$ ) during the May 1 through September 30 period for which early reductions are being claimed, for the purposes of the calculation in (d) above, shall be the total  $\text{NO}_x$  emissions as reported under (c)4i above.

(h) The total productivity of the source ( $P_p$ ), during the May 1 through September 30 period for which early reductions are being claimed, for the purposes of the calculation in (d) above, shall be determined in accordance with the following:

1. For sources that produce electricity, the total net electric output, expressed in MW-hr, during the May 1 through September 30 period for which early reductions are being claimed;

2. For sources that produce useful energy other than electricity, the total net useful heat output, expressed in MW-hr, during the May 1 through September 30 period for which early reductions are being claimed; and

3. For sources that produce both electricity and other useful energy, the sum of the results of (h)1 and 2 above.

(i) The amount of early reductions eligible to be claimed by a source which has been repowered or by a new source which has replaced a budget source shall be calculated in accordance with (d) above, except that:

1. The total baseline emissions of the source ( $E_B$ ) and the baseline productivity of the source ( $P_B$ ) shall be based on the original source; and

2. The determination of the total productivity and the source's total emissions ( $E_p$ ) during the May 1 through September 30 period (PP) shall be based on the operation of the repowered source or the new replacement source.

(j) (Reserved)

(k) The Department shall approve all claims for early reduction credits upon verification by the Department that the reductions are real, properly quantified, and surplus. If the information submitted pursuant to (c) above is reviewed and found by the Department as true, accurate and complete, and if the early reduction credits are calculated in accordance with the procedures in (d) above, then the early reduction credits shall be considered real, properly quantified, and surplus.

(l) The Department shall deny any claim for early reduction credits if:

1. The claim is not submitted in accordance with (b) above;

2. The claim is missing any information required in (c) above;

3. The claim contains any piece of information that the Department determines is not true, accurate or complete; or

4. The number of credits being claimed have not been calculated properly in accordance with(d) above.

(m) Notwithstanding (l)4 above, if during its review of a claim, the Department finds that the claimant has claimed an inappropriate number of early reduction credits due to a clear computational error, the Department shall so inform the claimant and adjust the number early reduction credits in lieu of denying the claim.

(n) On or before May 1, 1999, in order to provide the interested public an opportunity to comment, the Department shall publish a notice in the New Jersey Register which sets forth the number of early reduction credits the Department intends to convert into allowances, and lists each owner or operator who generated credits. In addition, the Department shall seek comment from the members of the OTC who are also implementing NO<sub>x</sub> Budget Programs.

(o) The notice published in accordance with (n) above shall provide a comment period of at least 30 days commencing with the New Jersey Register's date of publication. The Department shall take into consideration all relevant comments received during the comment period when making its final determination as to whether to approve the claim for early reduction credit. If, at the time of approval of a claim for early reduction credits, the amount of early reduction allowances is more than the amount specified in the notice of intent to approve published in the New Jersey Register, pursuant to (n) above, the Department shall publish a second notice in which it specifies this revised amount and sets forth the reasons for this revision.

(p) The Department shall provide the following information to the Administrator of the NATS and to USEPA, Region II:

1. A list of all sources that have generated approved early reduction credits;
2. The number of early reduction allowances approved for each source; and
3. Specification of whether each owner or operator has elected to receive the allowances or to accept an amount of DER credits, equivalent in value to the early reduction allowances.

#### 7:27-31.13 NO<sub>x</sub> Allowance Tracking System (NATS)

(a) The NO<sub>x</sub> Allowance Tracking System (NATS) is the official electronic database serving the NO<sub>x</sub> Budget Program which tracks all allowance transfer, use and retirement. The NATS shall keep track of each allowance held in each account and shall provide information for a specific time period such as the following:

1. The allowances transferred to and from each account;
2. The allowances retired; and

3. The allowances deducted for end-of season reconciliation purposes.

(b) Each allowance tracked in the NATS shall have a unique identification number, assigned by the NATS Administrator. The serial number of each allowance shall indicate the initial year the allowance may be used for compliance with the end-of-season reconciliation requirements.

(c) The NATS Administrator shall establish and maintain accounts in the NO<sub>x</sub> Allowance Tracking System (NATS), including:

1. On behalf of the owner or operator of each budget source, a source-specific compliance account for each budget source;
2. On behalf of the Department, general accounts that will serve as the Department's "primary" account and other "reserve" accounts for allocation purposes pursuant to N.J.A.C. 7:27-31.7; and
3. A retirement account to which allowances that have been deducted for end-of-season reconciliation shall be transferred, a retirement account to which allowances used for penalty purposes shall be transferred, and a retirement account to which allowances which are voluntarily retired shall be transferred.

(d) In addition to the accounts described in (c) above, the NATS Administrator shall establish a general account for any person who completes and submits a General Account Information form to the NATS Administrator.

(e) At the request of the member jurisdictions of the OTC, the United States Environmental Protection Agency's Acid Rain Division has agreed to serve as the NATS Administrator. Requests for the establishment of an account and any other communication directed to the NATS Administrator shall be addressed as follows:

ATTN: NO<sub>x</sub> BUDGET PROGRAM  
 United States Department of Environmental Protection  
 Acid Rain Division  
 401 M Street NW  
 Washington, DC 20460

(f) (Reserved)

(g) The holder of a compliance account shall designate an authorized account representative and one alternate authorized account representative for the account in accordance with (i) through (j) below. The authorized account representative and the alternate authorized account representative shall be the sole persons who have the authorities and responsibilities set forth in (l) through (n) below.

(h) The designation of an authorized account representative for compliance account shall be submitted to the Department no later than when any monitoring plan is due to be submitted to the Department pursuant to N.J.A.C. 7:27-31.14 or, if applicable, when an opt-in application is submitted to the Department pursuant to N.J.A.C. 7:27-31.4.

(i) The following procedure shall be used for the designation of an authorized account representative or an alternate authorized account representative of a compliance account:

1. The holder of the account shall obtain from the NATS Administrator the form entitled "Account Certificate of Representation";

2. The holder of the account shall provide the information requested on the form. This shall include, at a minimum, the following:

i. If the account is a compliance account for a specific budget source, a brief description of the budget source, the name of the facility at which the source is located, and the state in which the budget source is located;

ii. If the account is a compliance account for a specific budget source, the identification numbers for the budget source, including any number assigned by the state and any number assigned by the facility;

iii. The name, mailing address, telephone and facsimile number of the authorized account representative and of any alternate authorized account representative;

iv. If the account is a compliance account for a specific budget source, a list of the owners and operators of the budget source, or the list of the owners and operators of the entity applying for the general account;

3. If the account is a compliance account, the "Account Certificate of Representation" form shall contain the following statement: "I certify that I, \_\_\_\_ (name) \_\_\_\_, was selected as the Authorized Account Representative as applicable by an agreement binding on the owners and operators of the budget source legally designated as \_\_\_\_ (name of source) \_\_\_\_." The authorized account representative shall sign the form and, in doing so, shall attest to this certification;

4. The authorized account representative shall submit the completed and signed form to the NATS Administrator at the address listed on the form or the instructions to the form. A completed and signed form constitutes the agreement of representation. Upon receipt of the form by the NATS Administrator, the named individual(s) are officially designated the authorized account representative and the alternate authorized account representative; and

5. Once the NATS Administrator has recorded the designation of the named individual as authorized account representative or the alternate authorized account representative, the NATS Administrator shall confirm the designation to the holder of the account.

(j) Each account in the NATS shall have a unique identification number. Utilizing the information provided on the "Account Certificate of Representation" form for a compliance account or on the General Account Information form for a general account, the NATS Administrator shall associate the following information, at minimum, with each account: name of account owner(s) and operator(s), name of the authorized account representative, name of the alternate authorized account representative, mailing address of the authorized account representative, phone number of the authorized account representative, and the state in which the budget source is located (if applicable).

(k) A person may replace an individual who has been previously designated as an authorized account representative or an alternate authorized account representative with another individual. This shall be done through the submittal of a new "Account Certificate of Representation" form for a compliance account or of a new General Account Information form for a general account.

(l) The authorized account representative and the alternate authorized account representative are the sole persons who may submit:

1. A request for a transfer of one or more allowances from the NATS account they are authorized to represent to another account; or

2. A report to the NATS on behalf of an account, as required pursuant to N.J.A.C. 7:27-31.16, Reporting.

(m) Even through a request or a report may be submitted by the alternate authorized account representative pursuant to (l) above, the "primary" authorized account representative remains responsible for all allowance transfer requests and for all required reports.

(n) All correspondence from the NATS Administrator to the holder of an account shall be directed to the primary authorized account representative of the account.

#### 7:27-31.14 Emissions monitoring

(a) The owner or operator of each budget source shall monitor the NO<sub>x</sub> emissions from each budget source as specified by this section, by the "Guidance for Implementation of Emission Monitoring Requirements for the NO<sub>x</sub> Budget Program," the "Electronic Data Reporting: Acid Rain Program/NO<sub>x</sub> Budget Program—Version 2.0," and the "NO<sub>x</sub> Budget Program Monitoring Certification and Reporting Instructions."